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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,157	12/31/2001	Shmuel Shaffer	062891.0641	9347
5073	7590	06/29/2006	EXAMINER	
BAKER BOTTS L.L.P.			BLOUNT, STEVEN	
2001 ROSS AVENUE			ART UNIT	
SUITE 600			PAPER NUMBER	
DALLAS, TX 75201-2980			2616	

DATE MAILED: 06/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/039,157	Applicant(s) SHAFFER ET AL.	
	Examiner Steven Blount	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2006.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3 - 20, 22 - 39, 41 - 60 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1, 3 - 20, 22 - 39, 41 - 60 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3 – 20, 22 – 39, and 41 – 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent application 20010014095 to Kawahata et al in view of U.S. patent 6,745,043 to Lester et al.

With regard to claim 1, Kawahata et al teaches receiving a request for connecting to a dialed number, determining priority based on the number, and establishing a connection based on this priority. See paragraph 76. Kawahata et al do not, however, teach using a priority certificate. This is taught in Lester. See member 28 in figure 2. Note also that Lester et al also teach an identifier in col 3 lines 64+ (member 28). See also col 4, lines 48+.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have used a priority certificate in Kawahata et al (in place of the TOS info) in view of the teachings of Lester in order to promote more efficient processing.

With regard to claim 3, note that the packets are processed based on the certificate (identifier).

With regard to claim 4, it would be obvious to have a CPU process the certificate because it is well known that this is where most of the computer processing occurs.

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With regard to claim 5, the examiner notes that it would be obvious to increase the priority of the voice packets, because it is well known in the art that voice packets are more susceptible to problems such as jitter and would therefore require greater priority assignment.

With regard to claim 6, it would be obvious to provide higher access to applications such as gateways, since they provide connections to other applications.

With regard to claim 7, see the rejection of claim 5 and note that it would be obvious to provide voice more bandwidth priority for the reasons stated above with respect to claim 5.

With regard to claim 8, Kawahata et al teaches the invention as discussed above, but does not explicitly teach notifying the other users of a need to make resources available for a high priority connection. However, this would have been obvious to one of ordinary skill in the art at the time of the invention in order to be able to maintain the quality of connections for high priority calls, such as the emergency call mentioned in Kawahata et al.

With regard to claim 9, see col 9 lines 13+ where it is stated that "a pre-termination notification signal is generated on the lower priority communication link in order to notify end users that the communication link will be terminated shortly thereafter".

With regard to claim 10, the "other" connection is "downgraded" since it is disconnected.

With regard to claim 11, note the use of a "notification signal".

With regard to claim 12, see col 5 lines 15+ where it is noted that “the link will be terminated shortly thereafter”, which would at the very least make obvious the act of storing the data before sending the data on the lower priority link.

With regard to claim 13, see the above and note that the lower priority link is preempted.

With regard to claims 14 - 15, it is noted that adequate resources must be available on the lower link for the call to be connected.

With regard to claim 16, the “currently established connection” is the lower priority connection.

With regard to claim 17, the lower priority connection is monitored to determine when available bandwidth becomes available.

With regard to claims 18 - 19, end usage priority monitoring and modification would be obvious in view of the fact that the lower priority connections are made based on the types of users present at the end of the phone calls.

With regard to claim 20, 22, 24 - 25, and 27 – 38, these claims are interpreted and rejected for similar reasons as indicated in the rejection of the method claims discussed above, and it would have been obvious to one of ordinary skill in the art at the time of the invention to have a means to carry out the step as recited in claim 1 above.

With regard to claims 23 and 26, see the discussion above.

With regard to claims 39 and 43 - 57, see the discussion above, and further note that it would have been obvious to implement the process discussed above in software in order to insure its repeatability.

With regard to claims 22, and 25, the teachings of Kawahata et al/Lester are an obvious variation of the means taught by applicant in the specification of their application.

With regard to claims 41 - 42, see the discussion of the "priority certificate" above.

With regard to newly added claims 58 – 60, applicant is requested to see the rejection of claims 7 and 9 above.

Response to Arguments

3. Applicant's arguments have been fully considered but they are not persuasive.

Applicants main argument is that "Nowhere does Kawahata or Lester disclose, teach or suggest generating a priority certificate based on the priority and attaching the priority certificate to the communication packets of the connection."

In response, the Examiner notes that the identifier mentioned in col 3 lines 64+ of Kawahata et al for prioritizing the communication signal is said, in another embodiment (see col 4 lines 36+) to comprise an identification tag that is used to establish priority.

The examiner notes that 59 does not even recite in the body of the claim that a packet is involved.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Blount whose telephone number is 571 - 272 - 3071. The examiner can normally be reached on M-F 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Doris To, can be reached on 571 - 272 - 7269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SB 6/7/06



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